

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOVY PUSTOVIT,

Defendant.

NO. CR15-5251RBL

**PRELIMINARY ORDER OF
FORFEITURE**

Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and based upon the guilty plea of Defendant TOVY PUSTOVIT (hereinafter, "Defendant") to *Securities Fraud*, as charged in Count One of the Felony Information, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10b-5, and upon the Plea Agreement filed in this matter between Defendant and the United States, in which Defendant agreed to the forfeiture of the property described below, it is hereby:

ORDERED, ADJUDGED, and DECREED that, pursuant to Title 18, United States Code, Section 981(a)(1)(C), in accordance with Title 18, United States Code, Sections 1963 and 1962, as defined by Title 18, United States Code, Section 1961(1)(D), and Title 28, United States Code, Section 2461(c), Defendant's interest in the following property is hereby forfeited to the United States of America:

1 (a) A money judgment in the amount of \$266,373.00, in United States
2 currency, which represents proceeds derived from or traceable to the
3 offense charged in Count One of the Felony Information, or constitutes
4 substitute property pursuant to Title 21, United States Code,
5 Section 853(p), as incorporated in Title 28, United States Code,
6 Section 2461(c).

7 The Court finds that the above-described property is subject to forfeiture as
8 proceeds derived from or traceable to the offense charged in Count One of the Felony
9 Information, or constitutes substitute property pursuant to Title 21, United States Code,
10 Section 853(p), as incorporated in Title 28, United States Code, Section 2461(c).

11 IT IS FURTHER ORDERED that the United States Marshals Service and/or its
12 authorized agents or representatives shall seize the property described above, and
13 maintain said property in its custody and control until further order of this Court, or until
14 this Order becomes final pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal
15 Procedure.

16 IT IS FURTHER ORDERED that, pursuant to Title 21, United States Code,
17 Section 853(n), the United States shall publish notice of the Preliminary Order of
18 Forfeiture and of the intent of the United States to dispose of the property in accordance
19 with law. The notice shall state that any person, other than Defendant, having or
20 claiming a legal interest in the above-described property must file a petition with the
21 Court within sixty (60) days of the first day of publication of notice (which is thirty (30)
22 days from the last day of publication) on an official internet government forfeiture
23 website, currently www.forfeiture.gov, or within thirty (30) days of receipt of actual
24 notice, whichever is earlier.

25 The notice shall advise such interested person that:

- 26 1. The petition shall be for a hearing to adjudicate the validity of the
27 petitioner's alleged interest in such property;
- 28 2. The petition shall be signed by the petitioner under penalty of perjury; and

1 3. The petition shall set forth the nature and extent of the petitioner's right,
2 title, or interest in the forfeited property.

3 The petition shall also set forth any additional facts supporting the petitioner's claim and
4 the relief sought.

5 The United States shall also, to the extent possible, provide direct written notice as
6 a substitute for published notice to any person known to have an alleged interest in the
7 above-described property that is the subject of this Preliminary Order of Forfeiture.

8 Upon adjudication of any third-party claims, this Court will enter a Final Order of
9 Forfeiture pursuant to Title 21, United States Code, Section 853, in which all such claims
10 will be addressed.

11 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(4) of the Federal Rules
12 of Criminal Procedure, this Preliminary Order of Forfeiture shall become final as to the
13 defendant. If no third-party files a timely claim, this Order shall become the Final Order
14 of Forfeiture as provided by Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure.

15 IT IS FURTHER ORDERED that after the disposition of any motion filed under
16 Rule 32.2(c)(1)(A) of the Federal Rules of Criminal Procedure, and before a hearing on
17 any third-party petition, discovery may be conducted in accordance with the Federal
18 Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to
19 resolve factual issues.

20 WHEREAS, Rule 32.2(c)(1) of the Federal Rules of Criminal Procedure provides
21 that "no ancillary proceeding is required to the extent that the forfeiture consists of a
22 money judgment."

23 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3), this Order of
24 Forfeiture shall become final as to the defendant at of the time of sentencing, and shall be
25 made part of the sentence and included in the judgment.

26 IT IS FURTHER ORDERED that the United States may, at any time, pursuant to
27 Rule 32.2(e), move to amend this Order of Forfeiture to substitute property having a
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1 value not to exceed \$266,373.00 to satisfy the money judgment in whole or in part,
2 toward the \$266,373.00 forfeiture money judgment.

3 IT IS FURTHER ORDERED that the United States shall have clear title to the
4 above-described property following the Court's disposition of all third-party interests, or,
5 if none, following the expiration of the period provided in Title 21, United States Code,
6 Section 853(n) for the filing of third-party petitions.

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1 IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this
2 Order, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of
3 Criminal Procedure. The Clerk is directed to send a copy of this Preliminary Order of
4 Forfeiture to all counsel of record.

5 IT IS SO ORDERED.

6 DATED this 18th day of December, 2015.

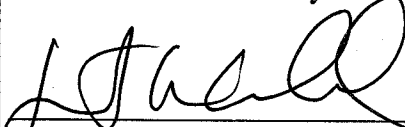
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9 RONALD B. LEIGHTON
10 United States District Judge

11 Presented by:

12 s/ Matthew H. Thomas

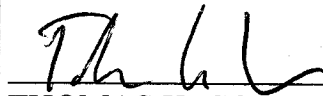
13 MATTHEW H. THOMAS
14 Assistant United States Attorney
15 United States Attorney's Office

16 

17 JUSTIN W. ARNOLD
18 Assistant United States Attorney
19 United States Attorney's Office

20 

21 TOVY PUSTOVIT
22 Defendant

23 

24 THOMAS K. COAN
25 Admission *Pro Hac Vice*
26 Attorney for Defendant